



I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: December 23, 2004 Signature: *Robert B. Cohen*
(Robert B. Cohen)

Docket No.: MOFFAT 3.0-033
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Foster et al.

Application No.: 10/795,945

Confirmation No.: 1424

Filed: March 8, 2004

Art Unit: 3672

For HYBRID COILED TUBING/FLUID
: PUMPING UNIT

Examiner: Not Yet
Assigned

PETITION UNDER 37 C.F.R. § 1.47(A) AND
RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This petition and response is respectfully submitted in response to the Notice to File Missing Parts of Application mailed on May 27, 2004, in connection with the above-identified application. Because one of the originally named co-inventors, Robert Joseph Foster, has refused to join in the application for patent by refusing to sign the oath or declaration as required by 37 C.F.R. § 1.63, Petitioner, Douglas Costall, requests that the presently submitted declaration for patent application executed by one of the two co-inventors (Douglas Costall) be accepted in complete response to the Notice to File Missing Parts of Application.

As set forth in more detail in the accompanying declaration of Jim Ashbaugh, the application papers were sent to

the non-signing inventor, Robert Joseph Foster, and Mr. Foster has refused to sign the declaration.

Pursuant to 37 C.F.R. § 1.47(a), the last known address at which the non-signing inventor Robert Joseph Foster resides is as follows:

Robert Joseph Foster
Box 85,, Site 6, RRS
Calgary, Alberta, Canada T2P 2G6

The Commissioner is hereby authorized to charge Deposit Account No. 12-1095 in the amount of \$260 in payment of (a) the petition fee for the present Rule 47(a) petition (\$130), and (b) the surcharge for submitting the declaration in response to the Notice To File Missing Parts (\$130). In the event that any other fees are due in connection with this present petition, the Commissioner is hereby authorized to charge such fees to our Deposit Account No. 12-1095.

Dated: December 23, 2004

Respectfully submitted,

By 

Robert B. Cohen

Registration No.: 32,768
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant



**In the Matter of United States Patent Application
Serial No. 10/795,945 filed on March 8, 2004 for
HYBRID COILED TUBING/FLUID PUMPING
UNIT**

AFFIDAVIT OF JIM ASHBAUGH

I, **Jim Ashbaugh**, businessman, of the city of Calgary, Alberta, Canada, being duly sworn, state as follows:

1. I have been the chief financial officer of Leader Energy Services Corp. and PD&E Resource Services Corp. (PD&E”), which were related companies both located in the same office premises in Calgary, Alberta, Canada. Effective October 1, 2004, the two companies have combined into one company now known as Leader Energy Services Ltd. The companies will sometimes hereinafter be collectively referred to as “Leader” for convenient reference. I am now the chief financial officer of Leader Energy Services Ltd.
2. In 2002, Leader retained the services of Mr. Robert Joseph Foster to design and manufacture pieces of equipment to be used in the servicing of oil and gas wells based on “flameless technology”. The pieces of equipment were to be used primarily for the heating of fluids to be injected into oil and gas wells without the use of open combustion burners conventional to the industry.
3. The pieces of equipment to be designed and manufactured were a HYBRID COILED TUBING/FLUID PUMPING UNIT (the “HYBRID RIG”), a FLAMELESS HOT OILER and a FLAMELESS BOILER.
4. Mr. Foster designed the HYBRID RIG in collaboration with Mr. Douglas Costall, an employee of Leader, and a patent application for this invention was filed in Canada on March 7, 2003 under Serial No. 2,421,376. Mr. Foster and Mr. Costall assigned their rights in the invention

in Canada, the United States and elsewhere to Leader on April 11, 2003 and a copy of the assignment is attached as Exhibit A to this affidavit.

5. Mr. Foster designed the FLAMELESS HOT OILER in collaboration with his spouse, Dorothy Foster, and a patent application for this invention was filed in Canada on May 1, 2003 under Serial No. 2,427,410. Mr. Foster and Dorothy Foster assigned their rights in the invention in Canada, the United States and all other countries to Leader on June 3, 2003 and a copy of the assignment is attached as Exhibit B to this affidavit. On the same date, Leader assigned the invention to PD&E and a copy of the assignment is attached as Exhibit C to this affidavit.

6. Mr. Foster designed the FLAMELESS BOILER in collaboration with his spouse, Dorothy Foster, and a patent application for the invention was filed in Canada on August 8, 2003 under Serial No. 2,437,181. Mr. Foster and Dorothy Foster assigned their rights in the invention in Canada, the United States and all other countries to Leader on October 28, 2003 and a copy of the assignment is attached as Exhibit D to this affidavit.

7. An application for the HYBRID RIG was filed in the United States Patent and Trademark Office on March 8, 2004 under Serial No. 10/795,945 claiming priority from Canadian Appln. Serial No. 2,421,376.

8. An application for the FLAMELESS HOT OILER was filed in the United States Patent and Trademark Office on May 3, 2004 under Serial No. 10/838,104 claiming priority from Canadian Appln. Serial No. 2,427,410.

9. An application for the FLAMELESS BOILER was filed in the United States Patent and Trademark Office on August 6, 2004 under Serial No. 10/912,821 claiming priority from Canadian Appln. Serial No. 2,437,181.

10. A copy of the Declaration for filing in the U.S. application for the HYBRID RIG was mailed to Mr. Foster by Moffat & Co., our Canadian patent agents, on May 20, 2004 care of Leader's address where Mr. Foster worked from time to time.

11. A copy of the Declaration for filing in the U.S. application for the FLAMELESS HOT OILER was mailed to Mr. Foster by Moffat & Co., our Canadian patent agents, on July 8, 2004 care of Leader's address where Mr. Foster worked from time to time.

12. A copy of the Declaration for filing in the U.S. application for the FLAMELESS BOILER was mailed to Mr. Foster by Moffat & Co., our Canadian patent agents, on September 29, 2004 care of Leader's address where Mr. Foster worked from time to time.

13. Mr. Foster and Mr. Costall duly executed the Declaration for the FLAMELESS HOT OILER which was filed in the United States Patent and Trademark Office on October 7, 2004.

14. In approximately October, 2004, business relations between Mr. Foster and Leader began to deteriorate and problems subsequently arose with respect to the completion and delivery of some of the flameless units, and this led to an additional dispute with Mr. Foster concerning compensation.

15. Notwithstanding the dispute, Mr. Foster was asked to sign and to have Dorothy Foster sign the Declarations for filing in the applications for the HYBRID RIG and the FLAMELESS BOILER, but to no avail.

16. Leader and Mr. Foster have been discussing their differences, and in discussions between myself and Mr. Foster over the last two weeks, Mr. Foster has advised me that he and Dorothy Foster would sign the Declarations assuming a settlement we were discussing was finalized. After further discussions with Mr. Foster, I believed that we were agreed on terms of settlement and a meeting was scheduled for Thursday, December 16, 2004 to complete the settlement and to have the Declarations signed by Mr. Foster and Dorothy Foster. I telephoned Mr. Foster the morning of December 16th

to make the final arrangements, at which time Mr. Foster informed me that on the advice of his legal counsel, he and Dorothy Foster would not sign the Declarations.

17. I am informed that the final deadline for filing the Declaration in Appln. No. 10/795,945 for the HYBRID RIG is December 27, 2004 and it is my view that there is no likelihood that Mr. Foster or Dorothy Foster will sign the Declarations by that date.

SWORN BEFORE ME at the City of)

Calgary)

Province of Alberta)

this 20 day of December, 2004)

[Signature])

A Commissioner, Notary Public, etc.)

D. RICHARD SKEITH
BARRISTER & SOLICITOR

[Signature]
Jim Ashbaugh

GA/bsw:2646-107.aff



EXHIBIT A

ASSIGNMENT

WHEREAS, WE, 1) Robert Joseph Foster and 2) Douglas Costall, citizens of Canada residing at

1) Box 85, Site 6, RR5, Calgary, Alberta, T2P 2G6; and

2) Box 694, Okotoks, Alberta, T0C 1P0

have invented certain new and useful improvements in a **HYBRID COILED TUBING/FLUID PUMPING UNIT** (the invention) described and claimed in Canadian Patent Application Serial No. 2,421,376 filed on March 7, 2003 (the "application");

WHEREAS, **Leader Energy Services Corp.**, whose full post office address is **Sierra Place, Suite 910, 706 - 7th Avenue SW, Calgary, Alberta, T2Y 0Z1** is desirous of acquiring the entire right, title and interest in, to and under the said invention and the said applications therefor, inclusive of any and all priority rights derived therefrom, and in and to all Letters Patent of Canada, the United States and countries foreign thereto, to be granted for the said invention;

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and of other good and valuable consideration paid to us by **Leader Energy Services Corp.** (hereinafter called the "Assignee"), receipt whereof is hereby acknowledged, the said **Robert Joseph Foster and Douglas Costall** (hereinafter called "the Assignors"), do hereby sell, assign and set over unto the Assignee our entire right, title and interest in Canada, the United States and all other countries in and to the said applications and in and to the said invention disclosed therein, inclusive of any and all priority rights derived therefrom, the same to be held and enjoyed by the Assignee, its successors, assigns or legal representatives to the full ends of the terms for which all Letters Patent therefor may be granted including any extensions or reissues thereof as fully and entirely as the same would have been held and enjoyed by us if this assignment and sale had not been made.

AND WE HEREBY AUTHORIZE the Assignee to make applications for and to receive Letters Patent for said invention in any foreign countries in its own name or in any name at its election.

AND WE HEREBY COVENANT AND AGREE that we will execute or procure any further necessary assurance of the title to the said invention and Letters Patent and that we will at any time upon the request and at the expense of the Assignee execute and deliver any and all papers that may be necessary or desirable to perfect the title to said invention or any Letters Patent which may be granted therefor to the Assignee, its successors, assigns, or other legal representatives and that we will at any time upon the request and at the expense of the Assignee testify in any legal proceeding, sign all lawful papers, execute any additional divisional, substituting, continuing or reissue applications for patents for said invention or any part or parts thereof, make all rightful oaths and generally do all lawful acts to aid the Assignee, its successors, assigns or other legal representatives to obtain and enforce patent protection in said invention in all countries without further

compensation but at the expense of the Assignee, its successors, assigns or other legal representatives.

AND WE HEREBY AUTHORIZE AND REQUEST The Commissioner of Patents or the Comptroller (as the case may be) to issue any and all Letters Patent for said invention or resulting from said applications or from any division, reissue or extension thereof to the Assignee as sole Assignee.

IN TESTIMONY WHEREOF, we have hereunto set our hands and affixed our seals.

April 11 2003
Date

Robert Joseph Foster
Robert Joseph Foster

Maria Elena Costaneda
Witness

April 11 2003
Date

Douglas Costall
Douglas Costall

Maria Elena Costaneda
Witness

GA/bsw:2646-104.ass



EXHIBIT B

ASSIGNMENT

WHEREAS, WE, 1) **Robert Joseph Foster** and 2) **Dorothy Foster**, citizens of Canada residing at

1) **Box 85, Site 6, RR5, Calgary, Alberta, T2P 2G6; and**

2) **Box 85, Site 6, RR5, Calgary, Alberta, T2P 2G6**

have invented certain new and useful improvements in a **FLAMELESS HOT OILER** (the invention) described and claimed in Canadian Patent Application Serial No. 2,427,410 filed on May 1, 2003 (the "application");

WHEREAS, **Leader Energy Services Corp.**, whose full post office address is **Sierra Place, Suite 910, 706 - 7th Avenue SW, Calgary, Alberta, T2Y 0Z1** is desirous of acquiring the entire right, title and interest in, to and under the said invention and the said applications therefor, inclusive of any and all priority rights derived therefrom, and in and to all Letters Patent of Canada, the United States and countries foreign thereto, to be granted for the said invention;

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and of other good and valuable consideration paid to us by **Leader Energy Services Corp.** (hereinafter called the "Assignee"), receipt whereof is hereby acknowledged, the said **Robert Joseph Foster and Dorothy Foster** (hereinafter called "the Assignors"), do hereby sell, assign and set over unto the Assignee our entire right, title and interest in Canada, the United States and all other countries in and to the said applications and in and to the said invention disclosed therein, inclusive of any and all priority rights derived therefrom, the same to be held and enjoyed by the Assignee, its successors, assigns or legal representatives to the full ends of the terms for which all Letters Patent therefor may be granted including any extensions or reissues thereof as fully and entirely as the same would have been held and enjoyed by us if this assignment and sale had not been made.

AND WE HEREBY AUTHORIZE the Assignee to make applications for and to receive Letters Patent for said invention in any foreign countries in its own name or in any name at its election.


AND WE HEREBY COVENANT AND AGREE that we will execute or procure any further necessary assurance of the title to the said invention and Letters Patent and that we will at any time upon the request and at the expense of the Assignee execute and deliver any and all papers that may be necessary or desirable to perfect the title to said invention or any Letters Patent which may be granted therefor to the Assignee, its successors, assigns, or other legal representatives and that we will at any time upon the request and at the expense of the Assignee testify in any legal proceeding, sign all lawful papers, execute any additional divisional, substituting, continuing or reissue applications for patents for said invention or any part or parts thereof, make all rightful oaths and generally do all lawful acts to aid the Assignee, its successors, assigns or other legal representatives to obtain and enforce patent protection in said invention in all countries without further

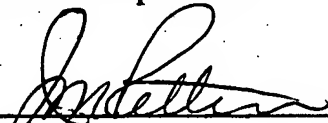
ompensation but at the expense of the Assignee, its successors, assigns or other legal representatives.

AND WE HEREBY AUTHORIZE AND REQUEST The Commissioner of Patents or the Comptroller (as the case may be) to issue any and all Letters Patent for said invention or resulting from said applications or from any division, reissue or extension thereof to the Assignee as sole Assignee.


IN TESTIMONY WHEREOF, we have hereunto set our hands and affixed our seals.

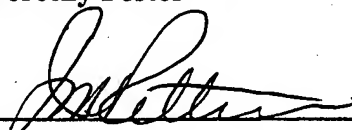
June 3/03
Date


Robert Joseph Foster


Witness

June 3/03
Date


Dorothy Foster


Witness

GA/bsw:2646-103.ass1



EXHIBIT C

ASSIGNMENT

WHEREAS, **Leader Energy Services Corp.**, whose full post office address is **Sierra Place, Suite 910, 706 - 7th Avenue SW, Calgary, Alberta, T2Y 0Z1**, is the owner of the entire right, title and interest in and to the invention described and claimed in Canadian Patent Application Serial No. 2,427,410 filed on May 1, 2003 (the "application");

WHEREAS, **PD&E Resource Services Corp.**, whose full post office address is **Sierra Place, Suite 910, 706 - 7th Avenue SW, Calgary, Alberta, T2Y 0Z1** is desirous of acquiring the entire right, title and interest in, to and under the said invention and the said applications therefor, inclusive of any and all priority rights derived therefrom, and in and to all Letters Patent of Canada, the United States and countries foreign thereto, to be granted for the said invention;

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and of other good and valuable consideration paid to us by **PD&E Resource Services Corp.** (hereinafter called the "Assignee"), receipt whereof is hereby acknowledged, the said **Leader Energy Services Corp.** (hereinafter called "the Assignor"), does hereby sell, assign and set over unto the Assignee our entire right, title and interest in Canada, the United States and all other countries in and to the said applications and in and to the said invention disclosed therein, inclusive of any and all priority rights derived therefrom, the same to be held and enjoyed by the Assignee, its successors, assigns or legal representatives to the full ends of the terms for which all Letters Patent therefor may be granted including any extensions or reissues thereof as fully and entirely as the same would have been held and enjoyed by us if this assignment and sale had not been made.

AND WE HEREBY AUTHORIZE the Assignee to make applications for and to receive Letters Patent for said invention in any foreign countries in its own name or in any name at its election.

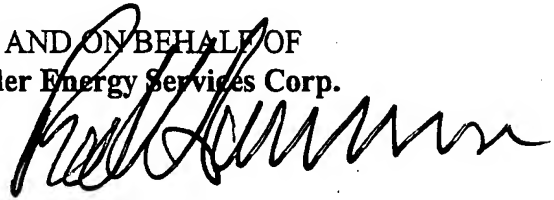
AND WE HEREBY COVENANT AND AGREE that we will execute or procure any further necessary assurance of the title to the said invention and Letters Patent and that we will at any time upon the request and at the expense of the Assignee execute and deliver any and all papers that may be necessary or desirable to perfect the title to said invention or any Letters Patent which may be granted therefor to the Assignee, its successors, assigns, or other legal representatives and that we will at any time upon the request and at the expense of the Assignee testify in any legal proceeding, sign all lawful papers, execute any additional divisional, substituting, continuing or reissue applications for patents for said invention or any part or parts thereof, make all rightful oaths and generally do all lawful acts to aid the Assignee, its successors, assigns or other legal representatives to obtain and enforce patent protection in said invention in all countries without further compensation but at the expense of the Assignee, its successors, assigns or other legal representatives.

AND WE HEREBY AUTHORIZE AND REQUEST The Commissioner of Patents or the Comptroller (as the case may be) to issue any and all Letters Patent for said invention or resulting from said applications or from any division, reissue or extension thereof to the Assignee as sole Assignee.

IN TESTIMONY WHEREOF, we have hereunto set our hands and affixed our seals.

Signed at Calgary, Alberta
(place of execution)
this 3rd day of June, 2003
(day) (month) (year)

FOR AND ON BEHALF OF
Leader Energy Services Corp.



Name

Maria Pineda Castaneda
Witness

President & C.E.O.
Title

GA/bsw:2646-103.ass2



EXHIBIT D

ASSIGNMENT

WHEREAS, WE, 1) Robert Joseph Foster and 2) Dorothy Foster, citizens of Canada residing at

1) Box 85, Site 6, RR5, Calgary, Alberta, T2P 2G6; and

2) Box 85, Site 6, RR5, Calgary, Alberta, T2P 2G6

have invented certain new and useful improvements in a **FLAMELESS BOILER** (the invention) described and claimed in Canadian Patent Application Serial No. 2,437,181 filed on August 8, 2003 (the "application");

WHEREAS, **PD&E Resource Services Corp.**, whose full post office address is **Sierra Place, Suite 910, 706 - 7th Avenue SW, Calgary, Alberta, T2Y 0Z1** is desirous of acquiring the entire right, title and interest in, to and under the said invention and the said applications therefor, inclusive of any and all priority rights derived therefrom, and in and to all Letters Patent of Canada, the United States and countries foreign thereto, to be granted for the said invention;

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and of other good and valuable consideration paid to us by **PD&E Resource Services Corp.** (hereinafter called the "Assignee"), receipt whereof is hereby acknowledged, the said **Robert Joseph Foster and Dorothy Foster** (hereinafter called "the Assignors"), do hereby sell, assign and set over unto the Assignee our entire right, title and interest in Canada, the United States and all other countries in and to the said applications and in and to the said invention disclosed therein, inclusive of any and all priority rights derived therefrom, the same to be held and enjoyed by the Assignee, its successors, assigns or legal representatives to the full ends of the terms for which all Letters Patent therefor may be granted including any extensions or reissues thereof as fully and entirely as the same would have been held and enjoyed by us if this assignment and sale had not been made.

AND WE HEREBY AUTHORIZE the Assignee to make applications for and to receive Letters Patent for said invention in any foreign countries in its own name or in any name at its election.

AND WE HEREBY COVENANT AND AGREE that we will execute or procure any further necessary assurance of the title to the said invention and Letters Patent and that we will at any time upon the request and at the expense of the Assignee execute and deliver any and all papers that may be necessary or desirable to perfect the title to said invention or any Letters Patent which may be granted therefor to the Assignee, its successors, assigns, or other legal representatives and that we will at any time upon the request and at the expense of the Assignee testify in any legal proceeding, sign all lawful papers, execute any additional divisional, substituting, continuing or reissue applications for patents for said invention or any part or parts thereof, make all rightful oaths and generally do all lawful acts to aid the Assignee, its successors, assigns or other legal representatives to obtain and enforce patent protection in said invention in all countries without further

compensation but at the expense of the Assignee, its successors, assigns or other legal representatives.

AND WE HEREBY AUTHORIZE AND REQUEST The Commissioner of Patents or the Comptroller (as the case may be) to issue any and all Letters Patent for said invention or resulting from said applications or from any division, reissue or extension thereof to the Assignee as sole Assignee.

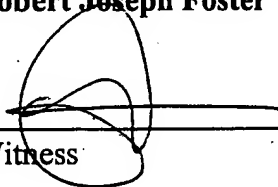
IN TESTIMONY WHEREOF, we have hereunto set our hands and affixed our seals.

Oct 28 2003

Date



Robert Joseph Foster



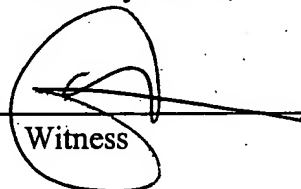
Witness

Oct 28 2003

Date



Dorothy Foster



Witness

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